

Surface Mining Reclamation and Enforcement, Interior

§ 872.33

Treasury that are otherwise unappropriated. Under section 411(h)(1) of SMCRA, we distribute prior balance replacement funds to you, the State or Indian tribe, for seven years starting in the Federal fiscal year beginning October 1, 2008.

§ 872.30 How does OSM distribute and award prior balance replacement funds?

(a) We distribute prior balance replacement funds to you as follows:

(1) In an amount equal to the aggregate, unappropriated amount allocated to you before October 1, 2007, under sections 402(g)(1)(A) or (B) of SMCRA;

(2) If you are, or are not, certified under section 411(a) of SMCRA; and

(3) Subject to § 872.35, in seven equal annual installments beginning with the 2008 Federal fiscal year which starts on October 1, 2007.

(b) We award these funds to you in grants according to the provisions of part 885 of this chapter for certified States and Indian tribes or part 886 of this chapter for uncertified States and Indian tribes.

(c) At the same time we distribute prior balance replacement funds to you under this section, we transfer the same amount to historic coal funds from moneys in your State or Tribal share of the Fund that were allocated to you before October 1, 2007. The transferred funds will be available for annual grants under § 872.21 for the Federal fiscal year beginning October 1, 2022, and annually thereafter. We will allocate, distribute, and award the transferred funds according to the provisions of §§ 872.21, 872.22, and 872.23.

§ 872.31 Are there any restrictions on how you may use prior balance replacement funds?

(a) Yes. If you are certified under section 411(a) of SMCRA, you may only use prior balance replacement funds for those purposes your State legislature or Tribal council establishes, giving priority to addressing the impacts of mineral development.

(b) Yes. If you are not certified under section 411(a) of SMCRA, you may only use prior balance replacement funds for the purposes in section 403 of SMCRA, which include:

(1) Reclamation of coal problems under § 874.12 of this chapter;

(2) Water supply restoration under § 874.14 of this chapter; and

(3) Maintenance of the AML inventory.

§ 872.32 What are certified in lieu funds?

“Certified in lieu funds” are moneys that we distribute to you, the certified State or Indian tribe, in lieu of moneys allocated to your State or Tribal share of the Fund after October 1, 2007. Certified in lieu funds come from general funds of the United States Treasury that are otherwise unappropriated. Beginning with the 2009 Federal fiscal year which starts on October 1, 2008, we distribute certified in lieu funds to you under section 411(h)(2) of SMCRA.

§ 872.33 How does OSM distribute and award certified in lieu funds?

(a) You must be certified under section 411(a) of SMCRA to receive certified in lieu funds.

(b) If you meet the eligibility requirement in paragraph (a) of this section, we distribute these certified in lieu funds to you as follows:

(1) Starting in the Federal fiscal year that begins on October 1, 2008, we annually distribute funds to you based on 50 percent of reclamation fees received for coal produced during the previous Federal fiscal year in your State or on Indian lands within your jurisdiction;

(2) The funds we annually distribute to you are in lieu of moneys we otherwise would distribute to you from State share funds under § 872.14 or Tribal share funds under § 872.17 had you not been excluded from receiving those funds under section 401(f)(3)(B) of SMCRA; and

(3) Subject to § 872.35, we annually distribute certified in lieu funds to you as shown in the following table:

In the Federal fiscal year(s) beginning on . . .	The amount of certified in lieu funds we annually distribute to you will be equal to . . .
(i) October 1, 2008	25 percent of your 50 percent share of annual reclamation fee collections.
(ii) October 1, 2009	50 percent of your 50 percent share of annual reclamation fee collections.
(iii) October 1, 2010	75 percent of your 50 percent share of annual reclamation fee collections.